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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of		
PETITION TO AMEND RULES 6,	)	
7, AND 41 OF THE ARIZONA	)	Supreme Court No. <u>R-16-0041</u>
RULES OF CRIMINAL	)	<b>Petitioner's Reply</b>
PROCEDURE	)	
_____	)	

Petitioner is grateful for the many useful and insightful, comments provided by defense, prosecution, and probation stakeholders. Petitioner provides the following explanation for those comments with which petitioner agrees or disagrees, in whole or in part. Appendix A attached hereto shows modifications to Petitioner's original proposal in response to the comment received.

- **Rule 6.1**

- Change to Proposal Based on Comments:

Petitioner has revised its amendment to section 6.1(b)(1) based on the recommendation of the Maricopa County Attorney's Office (MCAO). The revision clarifies the Task Force's objective in modifying this rule to target low-level misdemeanants who need representation by counsel to ensure they are not held on

bond unnecessarily due only to their inability to pay the amount set and to seek modification of conditions to permit release, if appropriate. Felony defendants are already routinely provided with counsel at the IA. Petitioner has also added language limiting the scope of representation for misdemeanants to determination of release conditions. This language is proposed in response to concerns expressed by MCAO and by the Arizona Prosecuting Attorneys Advisory Council (APAAC) in order to provide counsel for indigent detainees without incurring the cost for indigent representation to defend the charges in criminal cases for which appointed counsel is not required by law. The proposed addition to Rule 6.1(b) identifies a specific circumstance in which appointment of counsel for an indigent defendant not otherwise required is in the interest of justice, already a listed basis for appointment of counsel.

- Comments Not Requiring Change:

Petitioner declines to add to the rule the comment suggested by the Arizona Attorneys for Criminal Justice and Arizona Public Defender Association (AACJ), because the criminal rules restyling project currently underway will eliminate most if not all comments, and the suggested addition is unnecessary to an understanding of the rule.

The Maricopa County Probation Department (MCAPD) suggestion to add a provision for a second hearing on release conditions within 72 hours of detention

will be of little value to unrepresented defendants, because, based on information provided to the Task Force, judges would be unlikely to change their decisions only upon reconsideration without advocacy by counsel.

- **Rule 7.1**

- Change to Proposal Based on Comment:

Petitioner agrees the word “appearance” in the term “appearance bond” should not be deleted as suggested by APAAC. It is a common term and removal could lead to confusion.

- Comments Not Requiring Change:

While Petitioner agrees the terms “bail” and “bond” are confused by many, definitions for “bailable” and “bondable,” suggested by the MCAPD, are not needed. The term “bondable” does not appear anywhere in the pertinent statutes or the rules of criminal procedure, other than Release Form 6. Accordingly, the Form has been revised to use the term “non-bailable” rather than “non-bondable.”

Task Force recommendation number 46 (Final Report at p. 33) encourages use of unsecured or actual cash bonds in lieu of surety bonds, where monetary conditions are appropriate, in order to avoid the extra expense of a surety bond. Therefore Petitioner rejects the suggestion from MCAO that the definition of “cash bond” is unnecessary. For the same reason, Petitioner rejects suggestions from MCAO and APAAC that “deposit bonds” are confusing or not needed. Studies

presented to the Task Force have shown unsecured, deposit, and cash bonds are as effective as surety bonds at securing appearances. Judges need more options to order release conditions that fit each defendant's particular level of risk. Furthermore, the judiciary has a proven statewide collections program to assist with collections following forfeiture of unsecured bonds when necessary. The suggestion by APAAC that a mechanism is needed to collect on an unsecured bond does not require further revisions to Petitioner's proposal.

- **Rule 7.2**

- Change to Proposal Based on Comments:

Petitioner has added language recommended by MCAO to section 7.2(a) as a more complete statement of the factors to be considered by the court in setting release conditions. Petitioner also agrees its use of the word "actual" in the phrase "actual risk" is not consistent with A.R.S. § 13-3967(B)(4), and therefore has removed it from both Rules 7.2 and 7.3.

- Comments Not Requiring Change:

The MCAO and APAAC both suggested the first sentence in 7.2(a), the presumption of innocence, should be removed as unnecessary or "gratuitous." This statement is intended to remind judges not to lose sight of this fundamental principal in the often high-volume rush of defendants who appear for initial appearances and arraignments. It serves a purpose similar to the victim's rights statement required by

A.R.S. § 13-4438, which reminds all participants in criminal proceedings that victims matter. The sentence is, in addition, similar to the introductory phrase of A.R.S. § 13-4437, Standing to invoke rights.

- **Rule 7.3**

- Change to Proposal Based on Comments:

Petitioner agrees with MCAO that the risk assessment tool required by 7.3(b) should be more clearly identified and has added language in response. Petitioner also agrees with APAAC that if Prop 205 passes, it could entail the need to restrict recreational use of marijuana in some cases, accordingly Petitioner has modified 7.3(b)(1)(iii) to address that concern. Petitioner has also added prohibition of contact with a victim to 7.3(b)(1)(iv) as recommended by APAAC. In addition, Petitioner has changed the order in which the rule lists the types of bonds to reflect the fact that a cash bond can be more onerous than a surety bond to an impoverished defendant. This same change has been made to Form 7.

- Comments Not Requiring Change:

Petitioner opposes removal of the second sentence in 7.3(b)(2), which is a correct statement of the law, pursuant to the U.S. Supreme Court's opinion in *Stack v. Boyle*, 342 U.S. 1, 5; 72 S.Ct. 1, 3 (1951) (" [T]he modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused. Bail set at a figure higher than an amount

reasonably calculated to fulfill this purpose is ‘excessive’ under the Eighth Amendment.”); *U.S. v. Salerno*, 481 U.S. 739, 754-55 (1987)(bail is excessive if set at amount higher than amount necessary to ensure protection of government interest such as safety of individuals or community); *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772, 775 (9<sup>th</sup> Cir. 2014). The sentence at issue emphasizes the importance of assuring the necessity of any monetary bond imposed and the need to reconsider a bond amount intended to secure the defendant’s appearance in court following release rather than prevent the defendant’s release.

- **Rule 7.4**

No comments addressed the proposed change to this rule.

- **Rule 7.6**

- Change to Proposal Based on Comments:

Petitioner agrees with APAAC that the proposed amendment may cause confusion at exoneration, especially in the case of a deposit bond. Therefore, a reference to subsection 7.6(c)(2), which governs forfeitures, has been added to clarify that the court may partially exonerate or forfeit any deposit or cash bond.

- **Rule 7.7**

- Change to Proposal Based on Comments:

Petitioner is withdrawing its proposal for a new Rule 7.7 based on further review by the Petitioner, the logistical concerns raised by MCAPD, APAAC, and

MCAO as well as the need to resolve how the rule can accommodate victims' rights.

- Comments Not Requiring Change:

For the reasons stated above, Petitioner has rejected the recommended revision proposed by MCAPD. Petitioner will undertake further study before proposing a solution to the problem this rule proposal was intended to address.

- **Form 6**

The only change made to this Form is the change from “non-bondable” to “non-bailable,” for the reason explained under Rule 7.1 supra.

- **Form 7**

- Change to Proposal Based on Comments:

Petitioner agrees with APAAC that the proposed Form 7 needed some rewording to better notify defendants and sureties of the fact that not only failure to appear, but also failure to comply with other release conditions could result in forfeiture. The Form has been substantially revised to emphasize the warning to these parties. Also, the order of bond types has been changed for the reason given under Rule 7.3. The version of the Form 7 in Appendix A does not reflect changes from the version appearing in the initial petition due to changes made to the formatting.

- Comments Not Requiring Change:

Petitioner disagrees with the APAAC suggestion that Form 7 amendments

need to await adoption of the changes to Rule 7.1.

- **Other Comment for Change to Rule 3.2**

MCAPD recommended a modification to Rule 3.2, which requires the court to set a secured appearance bond when issuing an initial arrest warrant in some cases. Rule 3.2 was not part of the original petition in the instant matter, therefore, Petitioner does not believe he can ask the Court to consider it at this point. However, the Task Force will consider whether to include this proposal in a new Rule 28 petition that Petitioner expects to file later this year.

Wherefore, petitioner respectfully requests that the Court amend the Rules of Criminal Procedure as proposed in the Appendix A included herewith.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of \_\_\_\_, 2016.

By \_\_\_\_\_  
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**APPENDIX A**  
**to**  
**PETITIONER'S REPLY**

showing proposed changes to Petitioner's original proposal  
(language to be removed is shown in ~~striketrough~~, new language is underlined)

**Rule 6.1. Rights to counsel; waiver of rights to counsel**

**a. [no changes]**

**b. *Right to Appointed Counsel.*** An indigent defendant is entitled to have an attorney appointed:

(1) If detained pretrial after misdemeanor criminal charges are filed for the limited purpose of determining release conditions;

(2) In any criminal proceeding that may result in loss of liberty; and

(3) In any other criminal proceeding in which the court concludes that the interests of justice so require.

**c. through e. [no changes]**

**Rule 7.1. Definitions and applicability of rule**

**a. *Own recognizance.*** "Own recognizance" means release of a person without imposing any bond as a condition of release.

**b. *Unsecured appearance bond.*** An "unsecured appearance bond" is an undertaking, on a form approved by the Supreme Court, to pay to the clerk of the court a specified sum of money upon failure of a person released to comply with the conditions of the bond.

**c. *Cash bond.*** A "cash bond" is a secured appearance bond consisting of actual cash deposited by the person released or someone on behalf of that person other than a professional bondsman.

**d. *Deposit bond.*** A "deposit bond" is a partially-secured appearance bond in which the person, or someone on behalf of that person other than a professional bondsman, deposits a percentage of the full bond amount in cash.

**e. *Secured appearance bond.*** A "secured appearance bond" is ~~aan~~ an appearance bond secured by deposit with the clerk of security equal to the full amount thereof.

**f. *Security.*** "Security" is cash, a surety's undertaking, or any property of value,

deposited with the clerk to secure a an appearance bond. The value of such property shall be determined by the clerk, or at the clerk's or a party's request, by the court.

**g. Surety.** A "surety" is one, other than the person released, who executes an appearance a bond and binds the surety to pay its amount if the person released fails to comply with its conditions. A surety shall file with a an appearance bond an affidavit that he or she is not an attorney or person authorized to take bail, and that the surety owns property in this state (or is resident of this state owning property) worth the amount of the appearance bond, exclusive of property exempt from execution and above and over all liabilities, including the amount of all outstanding appearance bonds entered into by the surety, specifying such property, the exemptions and liabilities thereon, and the number and amount of such appearance bonds.

**h. Professional Bondsman.** Any person who is surety simultaneously on more than four appearance bonds is a "professional bondsman." No person may be a professional bondsman unless the person annually certifies in writing under oath to the clerk of the Superior Court that the person

- (1) Is a resident of this state;
- (2) Has sufficient financial net worth to satisfy reasonable obligations as a surety;
- (3) Agrees to assume an affirmative duty to the court to remain in regular contact with any defendant released pursuant to a an appearance bond on which the person is a surety;
- (4) Has not been convicted of a felony, except as otherwise provided by A.R.S. § 20-340.03;
- (5) Has no judgments arising out of surety undertakings outstanding against him or her;
- (6) Has not, within a period of two years, violated any provisions of these rules or any court order.

Capacity to act as a professional bondsman may be revoked or withheld by the clerk, or by the court, for violation of any provision of this rule.

**j. Applicability.** This rule shall not apply to minor traffic offenses.

#### **COMMENT [AMENDED 2007]**

Rule 7.1 contains the definitions of the terms used in the rule and the requirements for "sureties" and "professional bondsmen" currently specified in the rules of criminal procedure.

**Rule 7.1(a).** See Form 6 for an order of release.

**Rule 7.1(b).** The rule substitutes for "bail bond" and "bail" the term "unsecured appearance

bond” which emphasizes the role of unsecured bonds. See Ariz.Rev.Stat.Ann. § 13-1577(E) (Supp.1972) [now § 13-3967] (noting propriety of conditions other than money bail). See Form 7.

**Rule 7.1(e).** “Secured appearance bond” is used instead of “bail”. See Form 7 for a secured appearance bond.

**Rule 7.1(f).** “Security” is defined broadly enough to encompass anything of value.

**Rule 7.1(g).** This definition includes the requirements of the 1956 Ariz.Rules of Criminal Procedure, as amended, Rules 46, 47, 48(A) and 49. Wherever standards are unclear under present rules, this definition chooses their most onerous interpretation. See Form 7 and Attachment A thereto for the form of the surety's undertaking and affidavit.

**Rule 7.1(h).** The definition of “professional bondsman” is more limited than the 1956 Ariz.Rules of Criminal Procedure, as amended, Rules 50 and 51. The clerk is required to review a professional bondsman's qualifications annually.

## **Rule 7.2. Right to release**

**a. Before Conviction; Persons Charged With an Offense Bailable as a Matter of Right.** All persons charged with a crime but not yet convicted are presumed to be innocent. Except as otherwise provided in these rules, any person charged with an offense bailable as a matter of right must be released pending or during trial on the person's own recognizance with only the conditions of release required by Rule 7.3(a), unless the court determines, in its discretion, that such a release will not reasonably assure the person's appearance as required or protect other persons or the community from risk posed by the person. If such a determination is made, the court may impose the least onerous condition or conditions contained in rule 7.3(b) that are reasonable and necessary to protect other persons or the community from ~~an actual~~ risk posed by the person or to secure the appearance of the person in court.

**b. through d. [no changes]**

### **COMMENT TO 2014 AMENDMENT TO RULE 7.2(B)**

Rule 7(b) was amended in 2014 to comply with [Lopez-Valenzuela v. Arpaio, 770 F.3d 772 \(9th Cir. 2014\)](#), *cert. denied*, 135 S.Ct. 2046 (2015), which held unconstitutional A.R.S. Const. Art. 2, § 22(A)(4) and A.R.S. § 13-3961(A)(5) mandating that bail be denied to undocumented immigrants charged with a serious crime.

### **COMMENT**

**Rule 7.2(a).** This section establishes a presumption for release on recognizance in most cases. Offenses “bailable as a matter of right” are defined in [Ariz.Const. Art. 2, § 22](#) and [Ariz.Rev.Stat.Ann. § 13-1571](#) (1956) [now [§ 13-3961](#)] as all cases except “capital offenses when the proof is evident or the presumption great” and felonies committed while on bail (using the same “proof is evident or the presumption great” standard).

The presumption of an “own recognizance release” follows closely the ABA, Standards Relating to Pretrial Release, § 5.1 (Approved Draft, 1968), and the Federal Bail Reform Act, [18 U.S.C.A. § 3146](#) (1966).

**Rule 7.2(b).** See [Rule 17, Rules of the Supreme Court](#), 17 Ariz.Rev.Stat.Ann.

#### COMMITTEE COMMENT TO 1993 AMENDMENT

The 1993 amendment renumbered as Rule 7.2(b)(1) former Rule 7.2(b), which provides for the custody of a person convicted of an offense for which that person in all probability will suffer a sentence of incarceration, and made it applicable only in superior court. It added Rule 7.2(b)(2), applicable in limited jurisdiction courts, which represents a significant diversion from the parallel provision of Rule 7.2(b)(1). Rule 7.2(b)(2) provides that the person *shall* remain released on bail or own recognizance if these were conditions that existed prior to the person's conviction. A bond may still be required under Rule 6. Superior Court Rules of Appellate Procedure, in order to stay the execution of the remaining portion of the person's sentence.

### Rule 7.3. Conditions of release

#### a. *Mandatory Conditions.* [no changes]

**b. *Discretionary Conditions in General.*** The court may impose as a condition of release one or more of the following conditions, if the court finds the condition is reasonable and necessary to protect other persons or the community from an actual risk posed by the person or secure the person's appearance. In making this determination, the court must consider the results of ~~an approved~~ a risk assessment approved by the supreme court or a lethality assessment provided by law enforcement, if provided.

#### (1) Non-monetary conditions:

(i) Place the person in the custody of a designated person or organization agreeing to provide supervision;

(ii) Restrict the person's travel, associations, or residence;

(iii) Prohibit the person from possessing any dangerous weapon or engaging in certain described activities or consuming intoxicating liquors or ~~illegal~~ certain drugs, unless validly prescribed;

(iv) Prohibit the person from contacting the victim;

~~(v)~~ Require the person to report regularly to and remain under the supervision of an officer of the court;

~~(vi)~~ Return the person to custody after specified hours; or

~~(vii)~~ Any other non-monetary condition that has a reasonable relationship to assuring the safety of other persons or the community from an actual risk posed by the person or securing the person's appearance.

(2) Monetary conditions. In deciding whether to impose a monetary condition of release and what amount to impose, the court must make an individualized determination of the person's risk of non-appearance, risk to the community, and financial circumstances rather than rely on a schedule of charge-based bond amounts. The court must not impose a monetary condition that results in unnecessary pretrial incarceration solely because the person is unable to pay the bond. If the court determines a monetary condition is necessary, the court must impose the least onerous of the types of bonds listed below in the lowest amount necessary to protect other persons or the community

from ~~an actual~~ risk posed by the person or to secure the person's appearance. Monetary conditions include:

- (i) Unsecured bond;
- (ii) Deposit bond;
- (iii) ~~Cash bond~~ Other type of secured bond; or
- (iv) ~~Other type of secured bond~~ Cash bond

#### COMMENT [AMENDED 2007]

**Rule 7.3(a).** This section replaces the 1956 Ariz. Rules of Criminal Procedure, as amended, Rules 48 and 68 (forms of undertaking), specifying the matters which must be included in every order of release. The rule adds the requirement of good behavior from [Ariz. Rev. Stat. Ann. § 13-1578\(B\)](#) [now § 13-3968]. Also, following [Ill. Ann. Stat. Ch. 38, § 110-10\(a\)\(3\) and \(b\)\(3\)](#) (Smith-Hurd 1970), the prohibition against out-of-state travel without leave of the court is mandated for every case. The diligent prosecution of an appeal is also taken from the Illinois statute. (See the provision in Rule 7.2(b) for mandatory revocation upon violation of this requirement.) The surety's undertaking to surrender the person in the event of a supervening felony charge is deleted. See generally Form 6.

#### Rule 7.4. Procedure

[No changes to Petitioner's original proposal]

#### Rule 7.6. Transfer and disposition of bond

##### a. through c. [no changes]

##### d. *Exoneration*

(1) At any time before violation that the court finds that there is no further need for a an appearance bond, the court must exonerate the appearance bond and order the return of any security deposited.

(2) When a deposit bond or cash bond is exonerated, the court must order the return of the entire amount deposited, unless forfeited pursuant to rule 7.6(c)(2).

(3) If the surety, in compliance with the requirements of A.R.S. § 13-3974, surrenders the defendant to the sheriff of the county in which the prosecution is pending, or delivers an affidavit to the sheriff stating that the defendant is incarcerated in this or another jurisdiction, and the sheriff reports the surrender or status to the court, the court may exonerate the bond.

(4) In all other instances, the decision whether or not to exonerate a bond shall be within the sound discretion of the court.

e. [no changes]

**Rule 7.7. Temporary modification of conditions of release**

[Petitioner withdraws this proposed new rule]

COURT \_\_\_\_\_

County, Arizona

STATE OF ARIZONA Plaintiff -VS- _____ Defendant (FIRST, MI, LAST)										Booking Number _____ Date of Birth _____				RELEASE ORDER	
--	--	--	--	--	--	--	--	--	--	---	--	--	--	------------------	--

LINE #	COMPLAINT NO.	VIOLATION CODE	NF	ORR	PSR	3PR	BOND	BA	UB	DB	CB	SB	NB
1							\$						
2							\$						
3							\$						
4							\$						
5							\$						

(NF=Charge not filed; ORR=Own recognizance release; PSR=Pretrial supervision release; 3PR=Third party release bond; Bond=Amount of bond; BA=Bond applies; UB=Unsecured bond; DB=Deposit Bond; CB=Cash; SB=Secured bond; NB=Non-bondable/bailable)

If you are released from jail, you must follow all release conditions and appear at court as indicated below:

**MANDATORY AND STANDARD CONDITIONS OF YOUR RELEASE:**

- [X] 1. Appear at \_\_\_\_\_ court on: \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m., Courtroom: \_\_  
(Court name and address) (Date) (Time)  
 for \_\_\_\_\_ and attend all future court hearings.
- [X] 2. Violate no federal, state or local criminal laws.
- [X] 3. Not leave the state of Arizona without written permission from the court.  
 [ ] Defendant may leave the state of Arizona provided defendant returns for court dates.
- [X] 4. Diligently pursue any appeal if released from custody after judgment and sentence have been imposed.
- [ ] 5. Maintain contact with your attorney.
- [ ] 6. Provide a current address and phone number to the court and to your attorney and immediately notify both of any changes.
- [ ] 7. Not threaten or initiate any type of contact with the alleged victim(s).
- [ ] 8. Not drive a motor vehicle without a valid driver's license in your possession.
- [ ] 9. Not threaten or initiate any type of contact with any person as specified here: \_\_\_\_\_.
- [ ] 10. Not possess weapons as specified here: \_\_\_\_\_.
- [ ] 11. Not consume any alcoholic beverages.
- [ ] 12. Not go to scene of the alleged crime.
- [ ] 13. Not go to locations as specified here: \_\_\_\_\_.
- [ ] 14. Comply with 3rd party custody release conditions as specified here: \_\_\_\_\_.
- [ ] 15. Contact probation or parole officer. (See 3rd party obligations in this document.)
- [ ] 16. Electronic monitoring, if available, (mandatory if charged with a felony offense under Chapters 14 or 35.1 of Title 13)
- [ ] 17. Other: \_\_\_\_\_.

**ADDITIONAL CONDITIONS FOR YOUR PRETRIAL SUPERVISION RELEASE (PSR):**

- [ ] 18. Comply with the assigned pretrial supervision program as specified here: \_\_\_\_\_.
- [ ] 19. Provide a current address and phone number to Pretrial Services immediately and notify of any changes.

**FINANCIAL CONDITIONS OF RELEASE:** If you cannot post an appearance bond of \$ \_\_\_\_\_ you will remain in custody until your next court hearing on \_\_\_\_\_.

**IF YOU VIOLATE THIS ORDER: You have the right to be present at your trial and at all other proceedings in your case. IF YOU FAIL TO APPEAR THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST AND/OR HOLD THE TRIAL OR PROCEEDING IN YOUR ABSENCE. IF CONVICTED, YOU WILL BE REQUIRED TO APPEAR FOR SENTENCING. IF YOU FAIL TO APPEAR, YOU MAY LOSE YOUR RIGHT TO A DIRECT APPEAL.**

If you violate any condition of a bond, the court may order the bond and any related security deposit forfeited to the State of Arizona. In addition, the court may issue a warrant for your arrest upon learning of any violation of the conditions of release. After a hearing, if the court finds that you have not complied with the release conditions, the court may modify the conditions or revoke the release altogether.

If you are released on a felony charge, and the court finds the proof evident or the presumption great that you committed a felony during the period of release, the court must revoke your release. You may also be subject to an additional criminal charge, and upon conviction you could be punished by imprisonment in addition to the punishment which would otherwise be imposable for the crime committed during the period of release. Upon finding that you violated conditions of release, the court may also find you in contempt of court and sentence you to a term of imprisonment, a fine, or both.

**ACKNOWLEDGEMENT:** I fully understand and will comply with all release conditions indicated above and further understand the consequences should I violate any part of this order.

\_\_\_\_\_  
Current Address where you live

\_\_\_\_\_  
Apt. No.

\_\_\_\_\_  
Address where you receive mail if different from current address

( ) \_\_\_\_\_  
Phone No.

( ) \_\_\_\_\_  
Phone No.

X \_\_\_\_\_  
Defendant Signature Date

X \_\_\_\_\_  
Judicial Officer Date

DISTRIBUTION: WHITE – COURT YELLOW – SIMS OPERATOR PINK – DEFENDANT



COURT \_\_\_\_\_ County, Arizona

STATE OF ARIZONA Plaintiff -VS-			<b>APPEARANCE BOND</b>
Defendant (FIRST, MI, LAST)	Booking Number	Date of Birth	

**WARNING TO DEFENDANT AND DEFENDANT'S SURETY (if any)**

If defendant fails to appear at \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, 20\_\_\_\_\_ and at any other hearing, or fails to follow any other court-ordered condition of release during the pendency of the case, **THIS BOND MAY BE FORFEITED** and the proceedings begun without defendant. If convicted, defendant will be required to appear for sentencing. If defendant fails to appear at sentencing, defendant may lose the right to a direct appeal.

**AMOUNT OF APPEARANCE BOND ORDERED: \$** \_\_\_\_\_

**TYPE OF APPEARANCE BOND ORDERED:**

☐ **UNSECURED APPEARANCE BOND:** Defendant and defendant's surety, \_\_\_\_\_ (if none, so state) hereby promise to pay the State of Arizona the amount of the bond ordered if defendant fails to comply with any condition of release.

☐ **DEPOSIT BOND:** Defendant will deposit with the Clerk of the Court \_\_\_\_\_% of the total amount of the bond, with the remainder of \$\_\_\_\_\_ as an unsecured appearance bond. Defendant and defendant's surety, \_\_\_\_\_ (if none, so state) hereby promise to pay the State of Arizona the full amount of the bond ordered if defendant fails to comply with any condition of release. The deposited amount of the bond will be returned to the defendant, if defendant complies with all conditions of release.

☐ **SECURED APPEARANCE BOND:** Defendant will deposit with the Clerk of the Court cash or property having a value equal to or greater than the full amount of the bond.

**Depositor or Professional Bondsman:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_

**Avowal of non-professional surety (if applicable):** \_\_\_\_\_, surety for the defendant, hereby swears (or affirms) that the surety is not an attorney or person authorized to take bail, and that the surety owns property in this state (or is a resident of this state owning property) worth the amount of this bond, exclusive of property exempt from execution and above and over all liabilities, as detailed in Attachment A.

☐ **CASH BOND:** Defendant will deposit cash equal to the full amount of the bond with the Clerk of the Court. The cash deposited will be returned to defendant, if defendant complies with all conditions of release.

**ACKNOWLEDGEMENTS**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

State of Arizona                                 )  
  )  
County of \_\_\_\_\_)                         ss.

Subscribed and sworn to before me on  
\_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**Approved:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Surety or Authorized Agent

# Form 7 Attachment A

## [No changes]